

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Association of County Engineers	)	
	)	
	)	NO. 02-0780
	)	
	)	
Request for Declaratory Ruling Concerning	)	
The Underground Facilities Damage	)	
Prevention Act (220 ILCS 50)	)	

**NOTICE OF FILING**

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on June 6, 2003, we **filed electronically** with the Clerk of the Illinois Commerce Commission the attached **RESPONSE TO THE IACE AND TOI's MOTION TO CITE ADDITIONAL AUTHORITY**.

BY: \_\_\_\_\_  
On behalf of J.U.L.I.E., INC. and the  
ILLINOIS TELECOMMUNICATIONS  
ASSOCIATION

John R. Ardaugh #06192107  
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## **SERVICE LIST**

Mr. Bill Boyd  
President  
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Mr. Steven Matrisch  
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Illinois Commerce Commission  
527 E. Capitol Avenue  
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Judge Albers  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701

Mr. Jay S. Judge  
Judge, James & Kujawa, LLC  
422 N. Northwest Highway, Suite 200  
Park Ridge, IL 60068-3283

STATE OF ILLINOIS       )  
                                      ) SS  
COUNTY OF WILL        )

PROOF OF SERVICE

The undersigned, being first duly sworn upon oath, deposes and says that she served a true and correct copy of this **NOTICE OF FILING** with attached **RESPONSE TO THE IACE AND TOI's MOTION TO CITE ADDITIONAL AUTHORITY** upon the following on June 6, 2003 before the hour of 5:00 p.m.:

**VIA U.S. MAIL:**

Bill Boyd, President  
Illinois Association of County Engineers  
712 S. Second Street  
Springfield, Illinois 62704

**VIA E-MAIL:**

Steven Matrisch  
Office of General Counsel  
Illinois Commerce Commission  
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**VIA E-MAIL:**

Judge Albers  
Illinois Commerce Commission  
527 E. Capitol Avenue  
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**VIA FACSIMILE & U.S. MAIL:**

Jay S. Judge  
Judge, James & Kujawa, LLC  
422 N. Northwest Highway, Suite 200  
Park Ridge, Illinois 60068-3283

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Subscribed and sworn to before me  
this 6<sup>th</sup> day of June, 2003.

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Notary Public

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

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**J.U.L.I.E. AND THE ITA's RESPONSE TO THE IACE AND TOI's  
MOTION TO CITE ADDITIONAL AUTHORITY**

Respondents, J.U.L.I.E., INC. ("JULIE") by its attorneys, Spesia, Ayers & Ardaugh and the ILLINOIS TELECOMMUNICATIONS ASSOCIATION ("ITA") for their Response to the ILLINOIS ASSOCIATION OF COUNTY ENGINEERS ("IACE") and TOWNSHIP OFFICIALS OF ILLINOIS' ("TOI") Motion to Cite Additional Authority state as follows:

1. The matters before this Commission have fully been briefed. Therefore, the IACE and TOI's Motion to Cite Additional Authority is untimely and should be denied.
2. However, in the event that this Commission considers the Illinois Supreme Court case of Krohe v. City of Bloomington, No. 94112 (2003 WL 1362192) (Ill.) it is evident that this case does not support the position espoused by the IACE and TOI.
3. The IACE and TOI contend that the Illinois Supreme Court's decision in Krohe supports their position that the Supreme Court would approve of the Commission's use of the definitions contained within the Statutes relied on by the IACE

and TOI in the Brief on Exceptions<sup>1</sup> when interpreting the term "municipally owned utility". JULIE and the ITA respectfully submit that such an interpretation is misguided.

4. The Illinois Supreme Court in Krohe merely reaffirms those cannons of statutory construction referenced in JULIE and the ITA's Response to the IACE's Brief on Exceptions. Namely, that the plain language and intent of an Act should first be considered when interpreting a provision or term of the Act. There is nothing contained within the Illinois Supreme Court's decision in Krohe, nor in the IACE and TOI's Motion to Cite Additional Authority, which would advance the IACE and TOI's position.

WHEREFORE, J.U.L.I.E., INC. and the ILLINOIS TELECOMMUNICATIONS ASSOCIATION requests that this Court deny the ILLINOIS ASSOCIATION OF COUNTY ENGINEERS and TOWNSHIP OFFICIALS OF ILLINOIS' Motion to Cite Additional Authority and enter a final Order consistent with the findings and conclusions contained within the Commission's proposed Order of February 3, 2003.

SPESIA, AYERS & ARDAUGH

BY: \_\_\_\_\_  
Attorneys for Respondent

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<sup>1</sup> Illinois Municipal Code and Township and County Codes.

**VERIFICATION**

STATE OF ILLINOIS     )  
                                      )  
COUNTY OF WILL     )

John R. Ardaugh, being first duly sworn on oath, deposes and says that he has been designated as an agent for JULIE, Inc. in this behalf, that he has read the foregoing, Response To The IACE and TOI's Motion To Cite Additional Authority, knows the contents thereof, and that the same is true to the best of his knowledge in substance and in fact.

\_\_\_\_\_  
John R. Ardaugh

Subscribed and sworn to before me  
this 6th day of June,  
2003.

\_\_\_\_\_  
NOTARY PUBLIC